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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,389	05/09/2005	Daniele Pullini	4636-16	2833
23117 7590 09/29/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER FAROKHROOZ, FATIMA N				
ART UNIT 2889		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/534,389

Applicant(s)

PULLINI ET AL.

Examiner

FATIMA N. FAROKHROOZ

Art Unit

2889

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Joseph L. Williams/
Primary Examiner, Art Unit 2889

Continuation of 11, does NOT place the application in condition for allowance because: The arguments filed by the applicant has been considered but were not found to be persuasive for the following reasons:

1. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (page 9 of the Remarks), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).
2. In response to applicant's argument that the examiner has combined an excessive number of references (on page 9 of the Remarks), reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See In re Gorman, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).
3. With regards to arguments on page 10, paragraph 1, the arguments are not persuasive because the rejection with the Levinson and Richard prior art for claim 1 are not pertaining to the melting temperature/hence material of the emitter, Levinson teaches an emitter body with a micro-structure and Richard teaches the limitation of a refractory oxide emitter coating.
4. Regarding the arguments from page 10 to paragraph 2 of page 14 of Remarks regarding the Wuest reference, the arguments are not persuasive because:
 - a) the Wuest reference is not pertaining to just ionization counters, as it explicitly discloses aerosols that can also be used as a filament support in an incandescent lamp, so the aerosol and the lamp with the aerosol is not limited to ionization counters only therefore all the Wuest prior art limitations are applicable to lamps as well ; including the limitation of gold and tungsten for the lamp filaments (see col.5,lines 49-50 and col.5,lines 63-65) ; Further more ,other prior art such as US 2975075 and US 2900271 also use gold plated filaments. Therefore the limitations of the Wuest reference is applicable to lamps.
 - b) Regarding the arguments on the Munroe reference on page 14 of the Remarks,the arguments are not persuasive because Munroe reference is used to disclose that emitter extends between two electrodes only, and not electrode material/melting pont.
 - c) Regarding the arguments on the Ooms reference, the arguments are not persuasive since the grooves have been formed in Ooms lamp, which is the same field of endeavor of lamps as the Applicant and since Ooms teaches the throat or cavity (as disclosed in Ooms Figures) open to the material to facilitate melting and flow of the material, one of ordinary skill in the art would be motivated to use the same technique as in Ooms to form cavity/grooves in materials within other lamp configurations to facilitate melting and flow of the material.